

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE  
KNOXVILLE DIVISION**

|                          |   |                       |
|--------------------------|---|-----------------------|
| ARNOLD BROWN,            | ) |                       |
|                          | ) |                       |
| Plaintiff,               | ) | CIVIL ACTION FILE NO. |
|                          | ) |                       |
| v.                       | ) | 3:18-CV-00205-TRM-DCP |
|                          | ) |                       |
| NORFOLK SOUTHERN RAILWAY | ) |                       |
| COMPANY,                 | ) |                       |
|                          | ) |                       |
| Defendants.              | ) |                       |

**PLAINTIFF'S OBJECTIONS TO  
DEFENDANT'S DEPOSITION DESIGNATIONS**

Plaintiff, by and through counsel, makes the following objections to Defendant's deposition designations. Plaintiff objects to the presentation of evidence via deposition for any designated witness who either (1) are available for trial and have stated they will appear; or (2) are Defendant officers/officials/manager or otherwise are under the control of Defendant.

Regarding testimony from Jon Mick, Randall Pennington and Mike Hunter, Plaintiff objects based upon the reasons and authorities set forth in his *Motion to Prohibit Defendant from Presenting Evidence Under Rules 702, 703 or 705* (Doc. 80).

Plaintiff further objects as follows:

**Matthew Burnett:**

Plaintiff objects because this witness is available for trial. The witness testified he would appear for trial. Plaintiff further objects to the designations as follows:

- Page 26, Line 1 and Lines 8-18: Objection – irrelevant.
- Page 28, Line 9 through Page 32, Line 3 and Lines 14-21: Objection – irrelevant; hearsay.
- Exhibit 1: hearsay.

**Donald Calhoun:**

Plaintiff objects because this witness is available for trial. The witness testified he would appear for trial. Plaintiff further objects to the designations as follows:

- Page 78, Line 20 through Page 100, Line 24 (*Exhibit 2 and Exhibit 3*): Objection – FRE 404 (p. 84, ll. 1 – 21); Objection – FRE 404 (p. 85, l. 16 – p. 86, l. 11).
- Page 104, Line 19 through Page 105, Line 23 (*Exhibit 4 and Exhibit 5*): Objection – hearsay.

### **Tyler Chambers:**

Plaintiff objects because this witness is available for trial. The witness testified he would appear for trial. Plaintiff further objects to the designations as follows:

- Page 26, Line 4 through Page 27, Line 7: Irrelevant.
- Page 29, Lines 4-18: Hearsay.
- Page 30, Line 11 through Page 32, Line 20: Speculation; lack of first hand knowledge; irrelevant; hearsay.
- Page 37, Lines 20-25: Irrelevant.
- Exhibit 1: Hearsay.

### **T. Mike Hamm:**

Plaintiff objects because this witness is available for trial. He is a company official. Plaintiff further objects:

- Page 25, Lines 4-5 and Lines 14-16: Objection – incomplete; lines 4 -5 are a question; 14 – 16 are the answer to another question.
- Page 42, Line13 through Page 43, Line 5: Objection – incomplete and out of context; page 43, lines 6 – 25 are needed to make the testimony complete.
- Page 46, Lines 13-14: Objection – incomplete; p. 45, line 21 – page 46, line 12 are needed to make the testimony complete.

- Page 52, Line 15 through Page 53, Line 9: Objection – incomplete; page 53, line 10 – page 54, line 18 are needed to make the testimony complete.
- Page 74, Line 1 through Page 75, Line 9: Objection – incomplete; page 74, line 1 is the answer to a question and Defendant does not designate the portions of testimony that allow the answer to be placed into context.
- Page 98, Line 2 through Page 99, Line 7: Objection – irrelevant.
- Page 169, Line 22 through Page 170, Line 5: Objection – incomplete; page 170, line 5 ends with a question; the witness's response (lines 6 – 8) is necessary for completeness.
- Page 207, Line 23 through Page 211, Line 25 (*Exhibit 3, Exhibit 4, Exhibit 7*): Objection – leading; speculation.
- Page 214, Line 25 through Page 218, Line 16: Objection – undisclosed and unreliable expert/opinion testimony; Speculation (see page 240, lines 3 – 7).
- Page 240, Lines 3-7: Objection – speculation and incomplete; if allowed, lines 8 – 17 are needed to make the testimony complete.
- Page 242, Line 22 through Page 243, Line 4: Irrelevant.

**Mike Hunter:**

Plaintiff objects to this witness's testimony based upon the reasons and authorities set forth in court document 80. Plaintiff further objects:

- Page 12, Lines 18-24 (*Exhibit I*): Objection – undisclosed, unreliable expert testimony. See Doc. 80.
- Page 13, Line 16 through Page 18, Line 10: Objection - irrelevant
- Page 32, Lines 8-25: Objection – speculation; Rule 404.
- Page 38, Line 16 through Page 39, Line 8: Objection – hearsay.
- Page 40, Line 18 through Page 41, Line 5: Objection – hearsay.
- Page 46, Lines 5-7: Objection – hearsay.
- Page 54, Lines 16-25: Objection – speculation.
- Page 74, Lines 5-13: Objection – hearsay.
- Page 79, Lines 14-20: Objection – hearsay.
- Page 93, Lines 1-10: Objection – hearsay.
- Page 95, Lines 1-10: Objection – irrelevant; duplicative.

**Brooks John:**

Plaintiff objects because this witness is available for trial and has stated he will appear. Plaintiff further objects:

- Page 137, Line 22 through Page 138, Line 25: Objection – irrelevant.
- Page 141, Line 15 through Page 150, Line 16: Objection to portions based upon FRE Rule 404 and relevance; hearsay.
- Page 158, Lines 17 through 21: Objection – incomplete and out of context.

**Jon Mick:**

Plaintiff objects to this witness's testimony based upon the reasons and authorities set forth in court document 80. Plaintiff further objects:

- Page 14, Lines 3-7: Objection – incomplete; line 8 – page 15, line 21 and page 17, lines 1 – 17; page 18, lines 5 – 13 are needed to complete the testimony.
- Page 19, Lines 21-25: Objection; undisclosed, unreliable opinion testimony. See Doc. 80.
- Page 21, Lines 6-11; 22-25: Objection; undisclosed, unreliable opinion testimony. See Doc. 80; hearsay.
- Page 22, Lines 3-15: Objection; incomplete, hearsay, Rule 404.
- Page 23, Lines 13-24: Objection; hearsay, Rule 404.
- Page 27, Lines 1-4; Lines 20-25: Objection; hearsay, irrelevant.
- Page 28, Lines 1-3: Objection; irrelevant.
- Page 40, Lines 16-17; Lines 22-24: Objection; hearsay.
- Page 42, Lines 1-3: Objection; lacks firsthand knowledge.
- Page 46, Lines 6-10; Lines 12-14: Objection; FRE 404.
- Page 53, Lines 12-21: Objection; incomplete. Lines 22 – 23 are needed for completion.
- Page 73, Lines 17-25 (*Exhibit 1*): Objection; undisclosed, unreliable expert/opinion testimony. See Doc. 80.

- Page 74, Lines 1-2; Lines 14-16; Lines 20-23: Objection; undisclosed, unreliable expert/opinion testimony. See Doc. 80.
- Page 75, Lines 4-7; Lines 14-18: Objection; undisclosed, unreliable expert/opinion testimony. See Doc. 80.
- Page 76, Line 8 (*Exhibit 2*): Objection; undisclosed, unreliable expert/opinion testimony. See Doc. 80.
- Page 77, Lines 6-11; Lines 23-25: Objection; undisclosed, unreliable expert/opinion testimony. See Doc. 80.
- Page 78, Lines 10-14; Lines 22-25: Objection; undisclosed, unreliable expert/opinion testimony. See Doc. 80.
- Page 79, Line 1; Line 9 (*Exhibit 3*); Line 11-19: Objection; undisclosed, unreliable expert/opinion testimony. See Doc. 80.
- Page 80, Lines 11-15: Objection; undisclosed, unreliable expert/opinion testimony. See Doc. 80.
- Page 81, Line 6 (*Exhibit 4*); Lines 8-20; Lines 23-25: Objection; undisclosed, unreliable expert/opinion testimony. See Doc. 80.
- Page 82, Line 4 (*Exhibit 5*); Lines 9-11; Line 15: Objection; undisclosed, unreliable expert/opinion testimony. See Doc. 80.
- Page 83, Lines 22-23: Objection; undisclosed, unreliable expert/opinion testimony. See Doc. 80.

- Page 85, Line 5 (*Exhibit 6*); Lines 7-12; Lines 23-25: Objection; undisclosed, unreliable expert/opinion testimony. See Doc. 80.
- Page 103, Lines 7-25: Objection; FRE 404.
- Page 104, Lines 1-25: Objection; FRE 404.
- Page 105, Lines 1-25: Objection; FRE 404.
- Page 106, Lines 1-25: Objection; FRE 404.
- Page 109, Lines 1-9; Lines 12-25 (*Exhibit 5*): Objection; undisclosed, unreliable expert/opinion testimony. See Doc. 80.
- Page 110, Line 1; Lines 4-10; Lines 18-25: Objection; undisclosed, unreliable expert/opinion testimony. See Doc. 80.
- Page 111, Lines 1-16; 19-25: Objection; undisclosed, unreliable expert/opinion testimony. See Doc. 80.
- Page 112, Lines 1-23 (*Exhibit 14*); Line 25: Objection; FRE 404. Objection; undisclosed, unreliable expert/opinion testimony. See Doc. 80.
- Page 113, Lines 1-25: Objection; undisclosed, unreliable expert/opinion testimony. See Doc. 80.
- Page 114, Lines 1-22: Objection; undisclosed, unreliable expert/opinion testimony. See Doc. 80.
- Page 115, Lines 3-14: Objection; undisclosed, unreliable expert/opinion testimony. See Doc. 80.

**Randolph Pennington:**

Plaintiff objects because this witness, a company official, is available to appear at trial. Plaintiff also objects based upon the reasons and authorities set forth in court document number 80. Plaintiff further objects:

- Page 13, Line 9 through Page 24, Line 4 (with Errata correction, page 20, Line 23): Object to portions as hearsay; object to portions as undisclosed, unreliable expert/opinion testimony. See Doc. 80.
- Page 45, Line 19 through Page 46, Line 22: Objection as incomplete. Page 46, lines 24 – 25 are needed for completeness.
- Page 66, Lines 1-7 and Line 22 through Page 67, Line 7: Object to a portion as non-responsive (objection state on the record).
- Page 70, Line 12 through Page 71, Line 10: Objection; undisclosed/unreliable expert/opinion testimony. See Doc. 80.
- Page 73, Lines 13-21: Objection; hearsay, lack of firsthand knowledge. Objection; undisclosed/unreliable expert/opinion testimony. See Doc. 80.
- Page 75, Line 23 through Page 78, Line 8: Objection; incomplete and misleading. Page 78, lines 9 – 14 are needed for completeness.
- Page 143, Lines 1-24: Objection; undisclosed/unreliable expert/opinion testimony. See Doc. 80.

- Page 154, Lines 12-25 and *Exhibit 6*: Objection; undisclosed/unreliable expert/opinion testimony. See Doc. 80.
- Page 179, Line 8 through Page 180, Line 18 (excluding objection): Objection; undisclosed/unreliable expert/opinion testimony. See Doc. 80.
- Page 181 Line 3 through Page 183, Line 2: Objection; FRE 404; hearsay; Objection; undisclosed/unreliable expert/opinion testimony. See Doc. 80.
- Page 183, Line 17 through Page 186, Line 3: Objection; hearsay. Objection; undisclosed/unreliable expert/opinion testimony. See Doc. 80.
- Page 188, Lines 3-20: Object to portions as hearsay and for the reasons set forth in Document 80.
- Page 189, Lines 10-14: Objection; hearsay.

**John Stewart:**

Plaintiff objects because this witness is under Defendant's control and available for trial. Plaintiff further objects:

- Page 7, Line 24 through Page 8, Line 4: Object as incomplete. See Plaintiff's designations.
- Page 101, Line 6 through Page 106, Line 13: Object to portions based upon FRE 404.
- Page 113, Lines 2 through 10: Objection to portions based upon FRE 404

and attempt to garner sympathy for the witness.

**Jordan Walker:**

Plaintiff objects because this witness is available for trial and has stated he will appear. Plaintiff further objects:

- Page 19, Line 6 through Page 22, Line 5: Objection; incomplete. Page 22, line 6 – page 23, line 22 are needed for completeness.
- Page 30, Line 8 through Page 31, Line 2: Objection; incomplete. Page 31, lines 3 – 18 are needed for completeness.
- Page 36, Line 2 through Page 46, Line 5: Object to portions based upon the reasons set forth in Doc. 80; Object to portions based upon FRE 404.
- Page 49, Line 19 through Page 50, Line 18: Objection; FRE 404. Objection; hearsay.
- Exhibit 2: Objection – see Doc. 80.

**Steve White:**

This witness is under Defendant's control and can appear for trial.

- Page 44, Line 4 through Page 51, Line 9: Objection to portions; hearsay.
- Page 55, Line 8 through Page 56, Line 18: Objection; FRE 404; Irrelevant.
- Page 74, Line 22 through Page 76, Line 5: Object to portions as irrelevant.

- Page 77, Line 22 through Page 80, Line 3: Objection; irrelevant.
- Page 190, Lines 3 through 21: Objection; irrelevant.
- Page 193, Line 22 through Page 196, Line 6: Object to portions based upon hearsay. Object to portions based upon FRE 404.
- Page 201, Lines 4 through 16: Objection; irrelevant and FRE 404.
- Exhibit 1: Object to portions based upon relevance and FRE 404.
- Exhibit 5: Objection; irrelevant, FRE 404.

**Arnold Brown:**

Plaintiff objects as follows:

Page 6, lines 2 – 4: irrelevant.

Page 30, lines 21 – 23: irrelevant.

Page 58, lines 12 – 13: irrelevant.

Page 68, lines 20 – 26: irrelevant.

Page 95, lines 5 – 13: irrelevant.

Page 99, line 16 – page 100, line 4: irrelevant.

Page 101, lines 12 – 17: irrelevant.

Page 119, lines 1 – 2: FRE 404.

Page 196, lines 10 – 13: irrelevant.

Dated: March 23, 2020

**HALL & LAMPROS, LLP**

By: /S/ Andrew Lampros  
Andrew Lampros  
Tn BPR # 020167

400 Galleria Pkwy  
Suite 1150  
Atlanta, GA 30339  
(404) 876-8100  
alampros@hallandlampros.com

**Terry D. Jackson, PC**  
Terry D. Jackson  
600 Edgewood Ave.  
Atlanta, GA 30312  
(404) 659-2400  
terry@terryjacksonlaw.com

*Attorneys for Plaintiff*

## Certificate of Service

I hereby certify that I electronically filed Plaintiff's Objections to Defendant's Deposition Designations which will automatically send a true and correct copy to counsel of record:

John W. Baker, Jr.  
**BAKER, O'KANE, ATKINS & THOMPSON**  
2607 Kingston Pike, Suite 200  
P.O. Box 1708  
Knoxville, TN 37901-1709

Dated: March 23, 2020

**HALL & LAMPROS, LLP**

By: /S/ Andrew Lampros  
Andrew Lampros  
Tn BPR # 020167